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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,000	08/02/2000	Michael L. Blomquist	9015.135US01	8019
23552	7590	11/16/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			KOPPIKAR, VIVEK D	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/631,000

Applicant(s)

BLOMQUIST, MICHAEL L.

Examiner

Vivek D. Koppikar

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Application

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 18, 2006 has been entered. Claims 1-20, 23-24 and 26-31 have been examined in this application. This communication is the first action on the merits since the applicants filed a Request for Continued Examination (RCE) on July 18, 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6-20, 23-24 and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 5,788,669 to Peterson in view of US Patent Number 5,713,856 to Eggers in view of Official Notice and in further view of US Patent Number 5,307,262 to Ertel.

(A) As per claim 1, Peterson discloses a method for creating a library of pump data on a computer having a database, the pump data being organized into sets of program data, each set of

Art Unit: 3626

program data being available for batch downloading to a medical pump and including data items for controlling operation of the medical pump, the method comprising:

the plurality of data items forming a set of program data, (col. 4, lines 10-18 and lines 36-53).

Peterson teaches patient-specific parameters (Col. 1, Ln. 20-21). In Peterson the memory is within the pump (Figure 1 and Col. 3, Ln. 50-65).

Peterson does not explicitly disclose at least some of the data items establishing parameters for controlling operation of a medical PUDP entering a plurality of data items into a database on the computer.

However, Eggers discloses at least some of the data items establishing parameters for controlling operation of a medical pump (i.e. drug libraries customized for each user ...) (col. 10, line 62 - col. 11, line 45) entering a plurality of data items into a database on the computer, and assigning at least one data key to the set of program data, the data key identifying the set of program data (i.e. drug libraries customized for each user ...)(col. 10, line 62 - col. 11, line 45). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least some of the data items establishing parameters for controlling operation of a medical pump, entering a plurality of data items into a database on the computer as disclosed by Eggers within the Peterson system for the motivation of downloading complicated drug delivery profiles to the system (col. 2, lines 3-10 and col. 11, lines 14-20). Peterson and Eggers do not explicitly disclose assigning at least one data key to the set of program data, the data key identifying the set of program data.

However, the Examiner takes official notice that it was well known in the database arts to assign identifiers to data sets. The purpose of using identifiers was to locate the particular data

Art Unit: 3626

that is to be utilized by a user or program. It would have been obvious to one of ordinary skill in the art at the time of Applicants invention to include assigning at least one data key to the set of program data, the data key identifying the set of program data within Peterson and Eggers for the motivation stated above.

Peterson in view of Eggers does not teach or suggest batch-downloading the plurality of data items into the memory within the pump and controlling operation of the pump based on one or more data items, however, the step of batch downloading data is well known in the medical equipment industry as evidenced by Ertel (Col. 5, Ln. 20-26 and Col. 9, Ln. 10-16). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the application programs and memory in the combined teachings of Peterson in view of Eggers with the aforementioned teaching (by batch-downloading data items) from Ertel with the motivation of increasing the efficiency of data processing operations, as recited in Ertel (Col. 5, Ln. 20-26). (Note: If data for all patients was stored at once in the memory this would take up a greater amount of the memory within the pump and also slow down the functioning of the pump since the memory of the pump would be filled to a higher capacity).

(B) As to claim 2, Peterson does not explicitly disclose the method of claim 1 wherein the acts of:

entering a plurality of data items into a database includes entering the plurality of data items into a program data record in the database.

However, Eggers discloses entering a plurality of data items into a database includes entering the plurality of data items into a program data record in the database (i.e. drug library (Col. 2, Ln. 3-10 and Col. 11, Ln. 14-26). It would have been obvious to one of

Art Unit: 3626

ordinary skill in the art at the time of Applicant's invention to include entering a plurality of data items into a database includes entering the plurality of data items into a program data record in the database as disclosed by Eggers within the Peterson system for the motivation of downloading complicated drug delivery profiles to the system (col. 2, lines 3-10 and col. 11, lines 14-2). Peterson and Eggers do not explicitly disclose assigning at least one data key to the set of program data includes entering the data key into a data key record and linking the data key record to the program data record.

However, the Examiner takes official notice that it was well known in the database arts to assign identifiers to data sets and linking data key records to application programs.. The purpose of using identifiers was to locate the particular data that is to be utilized by a user or program. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include assigning at least one data key to the set of program data includes entering the data key into a data key record and linking the data key record to the program data record within Peterson and Eggers for the motivation stated above.

(C) As to claim 3, Peterson does not explicitly disclose the method of claim 2 wherein further including entering an identification code selected from the group consisting essentially of a patient I.D., a therapy I.D., and a fluid I.D., wherein the patient I.D. is a code identifying a patient, the therapy I.D. is a code identifying a therapy administered using a medical pump, and the fluid I.D. is a code identifying a fluid that is administered using a medical pump.

However, Eggers discloses further including entering an identification code selected from the group consisting essentially of a patient I.D., a therapy I.D., and a fluid I.D., wherein the patient I.D. is a code identifying a patient, the therapy I.D. is a code identifying a therapy

Art Unit: 3626

administered using a medical pump, and the fluid I.D. is a code identifying a fluid that is administered using a medical pump (col. 10, line 62 - col. 11, line 7). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include entering an identification code selected from the group consisting essentially of a patient I.D., a therapy I.D., and a fluid I.D., wherein the patient I.D. is a code identifying a patient, the therapy I.D. is a code identifying a therapy administered using a medical pump, and the fluid I.D. is a code identifying a fluid that is administered using a medical pump as disclosed by Eggers within the Peterson system for the motivation of downloading complicated drug delivery profiles to the system (col. 2, lines 3-10 and col. 11, lines 14-20).

(D) As to claim 6, Peterson in view of Eggers and in further view of Ertel disclose a computer storage medium contain a library of pump data, the computer storage medium be created by the method set forth in claim 1.

(E) Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view Eggers in view of Official Notice and in further view of Ertel as applied to claim 3 above, and further in view of "Acute Health Solutions' DoseWatch to use Multum's MediSource (hereinafter MediSource) and Eggers as applied to claim 3 above, and further in view of "Acute Health Solutions'" DoseWatch to use Multum's MediSource (hereinafter Medisource).

As to claim 4, Peterson does not explicitly disclose the method of claim 3 wherein the computer is in data communication with a scanner, the method further comprising.

scanning a bar code with the scanner; and

entering the bar code into the computer, wherein the act of assigning at least one data key to the

Art Unit: 3626

set of program data includes assigning the bar code to the set of program data.

However, MediSource discloses wherein the computer is in data communication with a scanner, the method further comprising.

scanning a bar code with the scanner; and entering the bar code into the computer, wherein the act of assigning at least one data key to the set of program data includes assigning the bar code to the set of program data (see abstract and page 2, paragraph 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the computer is in data communication with a scanner, the method further comprising: scanning a bar code with the scanner; and entering the bar code into the computer, wherein the act of assigning at least one data key to the set of program data includes assigning the bar code to the set of program data as disclosed by MediSource with the Peterson, Eggers, Official Notice and Ertel system for the motivation to insure association of the drug and concentration with a pump rate and an infusion amount (Abstract).

As to claim 5, Peterson does not explicitly disclose the method of claim 3 wherein the computer is in data communication with a medical pump, the method further comprising uploading a set of program data items from the pump.

However, MediSource discloses wherein the computer is in data communication with a medical pump, the method further comprising uploading a set of program data items from the pump (Abstract and Page 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to include a computer which is in data communication with a medical pump, the method further comprising uploading a set of program data items from the pump as

disclosed by MediSource within the Peterson system for the motivation of insuring association of the drug and concentration with a pump rate and an infusion amount (Abstract).

(F) As per claims 7-20 and 23-24, these claims are substantially similar to claims 1-6 and are rejected on the same basis.

(G) Claims 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Eggers and in further view of Ertel.

As per claim 26, Peterson teaches a pump for infusing fluid into a patient (Peterson: Figure 1 and Col. 3, Ln. 50-65), the pump comprising:

- a housing (Figure 1 and Col. 3, Ln. 50-65);
- a pump mechanism positioned within the housing (Figure 1 and Col. 3, Ln. 50-65);
- memory positioned within the housing and configured to store a plurality of data items forming a set of program data, at least some of the data items establishing patient-specific parameters for controlling operation of a medical pump (Figure 1; Col. 1, Ln. 1-21 and Col. 3, Ln. 50-65)
- and multiple program modules (Col. 3, Ln. 56-65 and Col. 4, Ln. 54-57).

Peterson does not explicitly disclose at least some of the data items establishing parameters for controlling operation of a medical PUDP entering a plurality of data items into a database on the computer.

However, Eggers discloses at least some of the data items establishing parameters for controlling operation of a medical pump (i.e. drug libraries customized for each user ...) (col. 10, line 62 - col. 11, line 45) entering a plurality of data items into a database on the computer, and assigning at least one data key to the set of program data, the data key identifying the set of

Art Unit: 3626

program data (i.e. drug libraries customized for each user ...)(col. 10, line 62 - col. 11, line 45). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least some of the data items establishing parameters for controlling operation of a medical pump, entering a plurality of data items into a database on the computer as disclosed by Eggers within the Peterson system for the motivation of downloading complicated drug delivery profiles to the system (col. 2, lines 3-10 and col. 11, lines 14-20). Peterson and Eggers do not explicitly disclose assigning at least one data key to the set of program data, the data key identifying the set of program data.

Peterson in view of Eggers does not teach or suggest programs which batch-downloading the plurality of data items into the memory within the pump and programs which control operation of the pump mechanism according to the batch downloaded plurality of items, however, the step of batch downloading data is well known in the medical equipment industry as evidenced by Ertel (Col. 5, Ln. 20-26 and Col. 9, Ln. 10-16). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have modified the application program and memory in Peterson in view of Eggers by batch-downloading data items (as taught by Ertel) with the motivation of increasing the efficiency of data processing operations, as recited in Ertel (Col. 5, Ln. 20-26). (Note: If data for all patients was stored at once in the memory this would take up a greater amount of the memory within the pump and also slow down the functioning of the pump since the memory of the pump would be filled to a higher capacity).

(H) As per claim 27, in Peterson the program data includes the delivery rate for the patient (Peterson: Col. 4, Ln. 47-53).

Art Unit: 3626

(I) As per claim 28, in Peterson the program data identifies a therapy name (Peterson: Col. 4, Ln. 47-53).

(J) As per claims 29-31, are these claims are substantially similar to claims 1-20, 23-24 and 26-28, above, are rejected on the same basis.

Response to Arguments

4. Applicant's arguments filed on September 1, 2006 with respect to claims 1-20, 23-24 and 26-31 have been considered but are moot in view of the new ground of rejection.

Examiner's Suggestions

5. The examiner suggests amending the claims to recite the particular steps that are involved in batch downloading in more detail. In addition, if the claims are amended to recite specific types of pump operational parameters that are downloaded by the batch downloading method that are not claimed in the prior art (i.e. Peterson, Eggers, Ertel and MediSource) then the claims could possibly be allowed subject to the amendment having support in the specification and to an updated search for new evidence or references.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Numbers 5,885,245 to Lynch (Col. 3, Ln. 19-33) and 5,368,562 to Blomquist teach data processing applications involving medical equipment.

“Credit Card Terminals Are Growing Up” teaches that batch downloading works well for terminals (memories) that have limited storage capacity (i.e. 32K to 64K).

Art Unit: 3626

7. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109.

The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

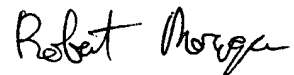
If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone numbers for this group are either (571) 273-8300 or (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information Retrieval (PAIR). Information regarding the status of an application can be obtained from the (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAX. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please feel free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,


Vivek Koppikar

11/13/2006


Robert Morgan
Patent Examiner
Art Unit 3626